

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

QUANTAL BLAKE,

Defendant.

8:14CR118

**MEMORANDUM
AND ORDER**

This matter is before the Court on defendant Quantal Blake’s (“Blake”) “Motion Under Rule 36 To Strike Filing #85 Unauthorized Presentence Report” (Filing No. 162). According to Blake, the report contains “inaccurate and fraudulent findings that a firearm was used in” one of the bank robberies he was convicted of committing. He further contends the filing of the report on the docket sheet after he was sentenced “was a crystal clear violation of due process, done without court authorization, to change the findings of fact of [the sentencing judge].”

Though presented as a motion to strike a filing to correct an “inadvertent” clerical error under Federal Rule of Criminal Procedure 36, Blake’s motion primarily raises sentencing issues previously reviewed and rejected at sentencing, on appeal, and on review of Blake’s request for post-conviction relief under 28 U.S.C. § 2255. *See United States v. Blake*, 858 F.3d 1134, 1136 (8th Cir. 2017) (finding on direct appeal “ample evidence . . . that one of the robbers used a firearm during the robbery”); *United States v. Blake*, No. 8:14CR118, 2018 WL 4921537, at *1-2 (D. Neb. Oct. 9, 2018), *on reconsideration*, No. 8:14CR118, 2018 WL 5874104, at *2 (D. Neb. Nov. 8, 2018) (denying Blake’s § 2255 motion on initial review and reconsideration). Those issues are not properly raised before this Court under Rule 36. *See* 28 U.S.C. § 2255(h) (requiring prior authorization from the court of appeals to file a second or successive § 2255 motion); *Rouse v. United States*, 14 F.4th 795, 800 (8th Cir. 2021) (explaining inmates

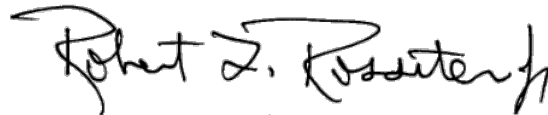
cannot bypass the requirements of 28 U.S.C. § 2244(b)(3) by purportedly invoking another procedure); *cf. United States v. Lambros*, 404 F.3d 1034, 1036 (8th Cir. 2005) (requiring a certificate of appealability for motions that “sought ultimately to resurrect the denial of [the defendant’s] earlier § 2255 motion”). Blake’s ancillary arguments likewise fall short. Accordingly,

IT IS ORDERED:

1. Defendant Quantal Blake’s “Motion Under Rule 36 To Strike Filing #85 Unauthorized Presentence Report” (Filing No. 162) is denied.
2. No certificate of appealability will issue because Blake has not made the requisite showing under 28 U.S.C. § 2253(c)(2).
3. The Clerk of Court is directed to send a copy of this Memorandum and Order to Blake at his address of record.

Dated this 6th day of December 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.
Chief United States District Judge